IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.1266 OF 2006

IN

APPEAL (L) NO.180 OF 2006

...

Viraf G. Ichhaporia ...Appellant

v/s.

Mancherji Jamshedji Cama

and ors. ...Respondents

...

Mr.Suraj Kudalkar i/b N.Dinkar Rao for the Appellant.

Mr.Cyrus Adreshir i/b Pardiwala & Co. for the Respondents.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 19TH JULY, 2007

P.C.:

By consent of parties, motion is granted in terms of prayer clause (a).

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL (L) NO.180 OF 2006

IN

SUIT NO.2974 OF 2005

...

Viraf G. Ichhaporia ...Appellant

v/s.

Mancherji Jamshedji Cama

and ors. ...Respondents

...

Mr.Suraj Kudalkar i/b N.Dinkar Rao for the Appellant.

Mr.Cyrus Adreshir i/b Pardiwala & Co. for the Respondents.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 19TH JULY, 2007

P.C.:

1. Heard the learned counsel for both sides.

2. We see no justification to modify the order appointing Receiver passed by the learned single Judge, considering that prima facie the Appellant does not have any authority to occupy the premises. However, considering the area of the premises and the situation of the Defendant/Appellant, in our opinion, it will not be appropriate to require the Appellant to pay the royalty at the market rate.

3. After having heard the learned counsel for both sides, in our opinion, it will be appropriate to direct the Appellant to pay the royalty at the rate of Rs.5,000/- per month as agent of the Receiver. The royalty at the above referred rate shall be payable from the date on which the Appellant was appointed as agent of the Receiver.

4. The amount of arrears of royalty to be deposited by the Appellant within a period of eight weeks from

today. In case the Appellant fails to deposit the arrears of royalty within the aforesaid period or commits any default in payment of monthly amount of royalty, the Plaintiff shall be at liberty to take out the motion for cancellation of the order providing for appointment of the Defendant as agent of the Receiver.

3. Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)